



AN ACT REVISING THE LAW RELATING TO THE RECOVERY FROM DEFENDANTS OF PROSECUTION COSTS; AMENDING SECTION 46-18-232, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Legislative findings -- cost of criminal proceedings. With respect to the cost of criminal proceedings, the legislature finds that:

- (1) the vast majority of the cost of the criminal proceedings in the state is borne by the general taxpaying public;
- (2) it is in the state's best interest to attempt to recover as much as possible of the cost of criminal proceedings from individuals who have been convicted of violating state laws;
- (3) various courts in the state of Montana have recently held that certain reasonable fees imposed upon defendants in criminal proceedings in the state, such as fees for general cost of prosecution, pretrial supervision, and community service supervision, were unlawful because there was no specific statutory authorization for the imposition of the costs on the defendant; and
- (4) the costs of prosecution and supervision of criminal defendants is a shared responsibility of the state and the counties.

Section 2. Section 46-18-232, MCA, is amended to read:

"46-18-232. Payment of costs by defendant. (1) A court may require a convicted defendant in a felony or misdemeanor case to pay costs, as defined in 25-10-201, plus costs of jury service, costs of prosecution, and the cost of pretrial, probation, or community service supervision as a part of ~~his~~ the defendant's sentence. ~~Such~~ The costs, in addition to those allowable under 25-10-201, shall ~~must~~ be limited to expenses specifically incurred by the prosecution or other agency in connection with the proceedings against the defendant or \$100 per felony case or \$50 per misdemeanor case, whichever is greater.

- (2) The court may not sentence a defendant to pay costs unless the defendant is or will be able to pay

them. In determining the amount and method of payment of costs, the court shall take into account the financial resources of the defendant, the future ability of the defendant to pay costs, and the nature of the burden that payment of costs will impose.

(3) A defendant who has been sentenced to pay costs and who is not in default in the payment thereof may at any time petition the court that sentenced him the defendant for remission of the payment of costs or of any unpaid portion ~~thereof~~ of the costs. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or ~~his~~ the defendant's immediate family, the court may remit all or part of the amount due in costs or modify the method of payment."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 18, part 2, and the provisions of Title 46, chapter 18, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2009.

- END -

I hereby certify that the within bill,
SB 0341, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2009.

Speaker of the House

Signed this _____ day
of _____, 2009.

SENATE BILL NO. 341
INTRODUCED BY LASLOVICH

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